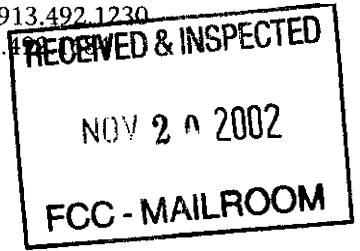


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Cinergy Communications Company
8829 Bond Street
Overland Park, KS 66214
phone 913.492.1230
fax 913.492.1231



CINERGY
COMMUNICATIONS

November 14, 2002

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Triennial Review of Unbundled Network Elements*, WCB Docket No. 01-338

Dear Chairman Powell:

I represent Cinergy Communications, an integrated telecommunications provider which is one of the beneficiaries of the high speed broadband revolution that has swept the nation in recent years. It is my understanding that the Federal Communications Commission is currently reviewing its rules related to the market-opening provisions of the Telecommunications Act of 1996. In particular, I understand that the FCC is considering whether or not to continue requiring the incumbent local exchange carriers to provide access to the high-frequency portions of their loop plant so that competitors can provide ADSL services to consumers and small businesses. I write to you to emphasize how vital the FCC's linesharing rules have been to the development and deployment of broadband services. Indeed, without linesharing, there would be no competition in broadband. Competition benefits consumers by fostering innovation, higher quality services, and lower prices. The FCC must preserve its existing linesharing rules if it wants the broadband revolution to continue.

On November 18, 2002, the nation will celebrate the third anniversary of the FCC's Linesharing Order. Since the FCC adopted its linesharing rules in 1999, broadband DSL deployment in this country has exploded. According to the FCC's own figures, by year-end 1999, just about the time the FCC adopted linesharing rules, there were a mere 115,000 DSL subscribers in the U.S., a paltry figure given that DSL was invented in the 1980s.¹ As soon as the FCC adopted linesharing rules, broadband deployment – by both CLECs and ILECs alike – began to explode. By year-end 2001, ADSL lines in service totaled 2.7 million, an increase of 36% over the first half of 2001.² That growth continues to expand at a rapid pace: today, at the

¹ See http://www.fcc.gov/Bureaus/Common_Carrier/News_Releases/2000/ncc0040a.pdf,
http://www.fcc.gov/Bureaus/Common_Carrier/News_Releases/2000/ncc0040b.pdf

² http://www.fcc.gov/Bureaus/Common_Carrier/News_Releases/2002/nrcc0201.html

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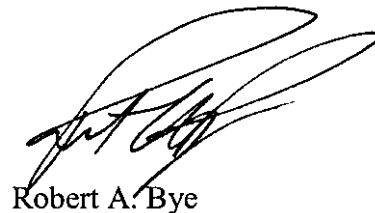
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end of the third quarter of 2002, there are about six *million* DSL lines in service in the U.S. In short, the FCC's linesharing rules have led to an explosive DSL growth rate in just three years. Deployment of broadband services continues to expand, and consumers and small businesses are adopting broadband at such a rapid rate that "critical mass" – the point at which broadband adoption reaches widespread acceptance and broadband content and services are widely deployed – will soon be upon us. As the Bell companies report record DSL deployment, and as competitors continue to lead the market with lower prices and innovative new services, consumers are the winners. As you know, although ADSL technology was first developed by the phone companies, it was not deployed for fear that it would undercut their more expensive (and profitable) T-1 and ISDN services. Because of the DSL competition made possible by linesharing, the phone companies have deployed broadband in response to competitive pressure. They will only continue their broadband deployment if DSL competition via linesharing continues to provide competitive pressure. The real issue facing broadband competitors today is demand – prices need to come down even further to encourage more broadband adoption. Before the FCC adopted linesharing rules, Bell companies priced their DSL services at upwards of \$70 per month. Today, competition is forcing prices down below \$40 per month. Only if the FCC allows competitive pressure to continue – by maintaining linesharing – will the nation's broadband revolution expand as prices continue to decrease.

As a provider of broadband services to the nation's consumers and small businesses, my company relies on the FCC's linesharing rules to promote competition and lower prices. In turn, my company is able to fulfill your broadband vision – providing affordable, innovative broadband services to all Americans. The availability of linesharing is crucial to my company's ability to deploy broadband to the nation, and I urge you to continue your dedication to competition and broadband deployment, and preserve linesharing in the Triennial Review proceeding.

Thank you for the opportunity to submit this letter for your consideration. Please do not hesitate to contact me if I can provide any additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Bye", with a large, stylized flourish at the end.

Robert A. Bye

Vice President and
General Counsel